




## State of New Jersey

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BOB MARTIN  
*Commissioner*

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Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance  
US EPA Region 2  
290 Broadway  
New York, NY 10007-1866

Joan Leary Matthews, Director  
Clean Water Division  
US EPA Region 2  
290 Broadway  
New York, NY 10007-1866

SUBJECT: Combined Sewer Overflows

Dear Ms. LaPosta and Leary:

Thank you for your letter of August 30, 2012 summarizing the United States Environmental Protection Agency's (EPA's) support of the New Jersey Department of Environmental Protection's (NJDEP) strategy for combined sewer overflows (CSOs). The cooperation, feedback and support by your office is greatly appreciated and will be integral to NJDEP's success as we embark on this new CSO strategy. While your letter identified the majority of issues discussed, I do need to clarify and add a few items that were not identified, as described below.

First, your letter notes that NJDEP does not propose to develop total maximum daily loads (TMDLs) for 303(d)-listed waters in the New York/New Jersey Harbor. I would like to clarify that the Department does not intend to move forward with the pathogen TMDL at this time, for the reasons identified in previous NJDEP correspondence and discussed at our meeting; NJDEP's decisions regarding other TMDLs in the New York/New Jersey Harbor have not been made.

Second, your letter indicates that NJDEP will require CSO communities to develop and implement Long Term Control Plans (LTCPs) using the "presumption approach". NJDEP will require the development of LTCPs and strongly encourage and promote, as part of an overall State strategy, the reduction of overflows as provided for under the "presumption approach".

However, communities will have the option to pursue either the presumption or demonstration approach, as allowed under the Federal Policy on CSOs and the New Jersey Administrative Code.

EPA also notes that NJDEP plans to use a regional approach in issuing individual permits to CSO owners who will cooperatively develop LTCPs with the treatment plant receiving the flows from the combined sewer systems. Though it is NJDEP's intent to offer support and promote cooperation, including facilitation by regional utilities, we do have concerns regarding implementation given the various entities and their relative responsibilities.

NJDEP appreciates the resources that EPA has already committed to this effort and information provided since our meeting, including a contact person regarding financial capability analyses. However, additional resources are necessary to ensure successful implementation of the CSO strategy, issuance of individual permits and development of LTCPs. Specifically, NJDEP requested access to a national CSO technical and policy expert from EPA Headquarters (HQ), who can answer specific, policy and implementation questions, in a timely manner. Ideally, this person can provide on-site assistance in the structure, definitions and implementation wording of the draft CSO permits, to ensure the permits are consistent with EPA policies. This person(s) preferably is someone who is familiar with the permit structure used in other states that involve multiple permittees with hydraulically connected systems, spanning numerous municipal entities and treatment facilities.

We also appreciate your willingness to provide additional training for NJDEP staff. Specific training needs identified to date include: techniques to ensure development of effective LTCPs; methods to integrate water quality goals of the LTCPs with water quality standards; methods to measure compliance with water quality goals; Use Attainability Analyses; methods to address background contamination and successful LTCP implementation in shared inter-state waters.

In terms of the requested incorporation of New Jersey's plan in the Performance Partnership Grant (PPG) workplan, NJDEP has provided both permit and TMDL commitments to the Performance Partnership Agreement (PPA) under separate cover. Those commitments reflect that NJDEP's goal to issue the first draft individual CSO permit in early 2013 and to complete the issuance of all draft CSO permits by early 2014. The PPA also includes NJDEP's specific TMDL commitments for 2013. Work in 2014 and beyond will be determined based on criteria for choosing water bodies for action, including alignment with the New Jersey State Strategic Plan and other New Jersey priority watershed activities.

A few items agreed to in our August 16<sup>th</sup> meeting were not reflected in your letter, and so are provided here. Specifically, EPA noted that it would provide a presentation regarding New York City's plans and program after September 6<sup>th</sup>. EPA also indicated that it would consider its appropriate level of participation in upcoming meetings with communities and regional utilities. We look forward to your decision in this regard, which I expect may depend on the specific meeting, audience and agenda.

We also appreciate the identification of members of the NJ CSO team for EPA, Region II. We would appreciate an EPA HQ contact person identified to be a member of this technical team. The primary NJDEP contacts for regular technical meetings will include:

- Michele Siekerka, Asst. Commissioner, [Michele.Siekerka@dep.state.nj.us](mailto:Michele.Siekerka@dep.state.nj.us) (609) 292-4543
- Michele Putnam, Director, [Michele.Putnam@dep.state.nj.us](mailto:Michele.Putnam@dep.state.nj.us) (609) 292-9977
- Jill Lipoti, Ph.D., Director, [Jill.Lipoti@dep.state.nj.us](mailto:Jill.Lipoti@dep.state.nj.us) (609) 292-1623
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- Gene Chebra, Assistant Director; [Gene.Chebra@dep.state.nj.us](mailto:Gene.Chebra@dep.state.nj.us); (609) 292-8961
- Pilar Patterson, Bureau Chief, [Pilar.Patterson@dep.state.nj.us](mailto:Pilar.Patterson@dep.state.nj.us) (609) 292-4860
- Debra Hammond, Bureau Chief, [Debra.Hammond@dep.state.nj.us](mailto:Debra.Hammond@dep.state.nj.us) (609) 777-1753
- Barbara Hirst, Bureau Chief, [Barbara.Hirst@dep.state.nj.us](mailto:Barbara.Hirst@dep.state.nj.us) (609) 633-1441
- Marcedius Jameson, Director, Water and Land Use Enforcement, [Marcedius.Jameson@dep.state.nj.us](mailto:Marcedius.Jameson@dep.state.nj.us) (609) 984-2011
- Jane F. Engel, DAG, Assistant Section Chief, Environmental Enforcement & Homeland Security, [Janè.Engel@dol.lps.state.nj.us](mailto:Janè.Engel@dol.lps.state.nj.us) (609) 292-1557

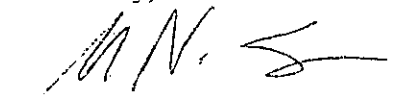
As with EPA, this list represents management leads and we may include additional staff as necessary.

Finally, as we agreed, NJDEP will schedule regular technical meetings between our agencies. The next meeting will be scheduled for mid-September. Potential agenda items include:

1. Status of EPA resources for NJDEP
2. Status of EPA's commitment to participate in public meetings with CSO communities
3. EPA's intent with regard to future enforcement actions in NJ
4. EPA's ability to fund green infrastructure projects (including demonstration projects) in NJ
5. Coordination of EPA Region II, EPA HQ and NJDEP, specifically, HQ participation in routine meetings
6. Discussion on how to integrate NY and NJ CSO strategies in shared waters, when different water quality standards exist

I look forward to working with you in this cooperative effort to implement an effective CSO strategy that improves New Jersey's waters.

Sincerely,



Michele N. Siekerka, Esq.  
Assistant Commissioner